

Applicants: Ann Marie Schmidt, et al.
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REMARKS

Claims 1, 32, 49 and 51 are pending in the subject application. In the August 22, 2006 Office Action, the Examiner restricted pending claims 1, 32, 49 and 51 to one of the following allegedly distinct inventions under 35 U.S.C. §121 as follows:

- I. Claim 1, drawn to methods for determining whether a compound is capable of inhibiting the interaction of a peptide with a receptor for advanced glycation end product (RAGE), classified in class 435, subclass 7.2; and
- II. Claims 32, 49 and 51, drawn to a method for inhibiting the interaction of a peptide with a receptor for advanced glycation end product (RAGE) in a subject, classified in class 5424, subclass 130.1.

In response, applicant hereby elects Group II, claims 32, 49 and 51, with traverse, for prosecution at this time. In addition, applicants have added new claims 58-75. New claims 58-75 correspond to previously canceled claims 33-48, 50 and 52, respectively. Canceled claims 33-48, 50 and 52 are dependent upon claims 32, 49 and 51 of Group II. Accordingly, applicants assert that new claims 58-75 should be examined together with the claims of Group II.

The Examiner also stated that in addition to election of one of the above groups, the Examiner also requires election of a single disclosed species. We understand, based on the December 18, 2006 telephone interview between Examiner Emch and Jeffrey Shieh, Esq of this firm, that applicants are to select from (a) quinine, (b)

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quinidine or (c) derivatives thereof, for prosecution on the merits to which the claims shall be restricted if no generic claims, i.e., claims 32, 49 and 51, are held to be allowable.

In response, applicants hereby elect quinine (on which claims 39, 42, 51 and 58-74 read), with traverse, for prosecution at this time.

Applicant, however, respectfully requests that the Examiner reconsider and withdraw the restriction requirement.

Under M.P.E.P. §803, the Examiner must examine the application on the merits if examination can be made without serious burden, even if the application would include claims to distinct or independent inventions. That is, there are two criteria for a proper requirement for restriction: (1) the invention must be independent and distinct, and (2) there must be a serious burden on the Examiner if restriction were not required.

Applicant respectfully submits that there would not be a serious burden on the Examiner if restriction were not required, because a search of the prior art relevant to the claims of Group II would provide the relevant prior art for Group I. Specifically, Groups I and II relate to methods all pertaining to the inhibition of a peptide to RAGE. Since there is no burden on the Examiner to examine Groups I and II together in the same application, the Examiner must examine the entire application on the merits.

In view of the foregoing, applicant maintains that restriction is not proper under 35 U.S.C. §121, and respectfully request that the Examiner reconsider and withdraw the requirement for restriction.

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No fee, other than the \$1020.00 fee for a three-month extension of time and the \$100.00 fee for two additional claims, is deemed necessary in connection with the filing of this Amendment, and a check for \$1120.00 is enclosed. However, if any additional fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Date

12/21/06